IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8693 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DEEPAK DHARMA SAPKAL

Versus

STATE OF GUJARAT

Appearance:

MR RAMNANDAN SINGH for Petitioner

Mr.D.N.Patel, Ld. AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 18/02/2000

ORAL JUDGEMENT

The Commissioner of Police, Vadodara, respondent no.2 herein passed an order of detention detaining the petitioner under the provisions contained in the Gujarat Prevention of Anti-social activities Act, 1985 ("PASA" for short) vide order dated 2.7.1999 vide Annexure A.

2. The grounds of detention served on the detenu are placed on record vide Annexure B dated 2.7.99. It appears that the detenu was prosecuted and 4 trials are pending against him. He was indulging in committing offences of theft. Not only that he is a dangerous person, he is in a habit of keeping dangerous weapons such as Rampuri knife, gupti, sword and by using such weapons, he is causing injuries to innocent people. Though he is serving in the Railways, he is prosecuted for offences of theft with his associates by not remaining present at the place of duty. The Detaining Authority has considered the statement of the persons and the Detaining Authority was satisfied that the detenu is required to be detained. The detenu has created an atmosphere of terror, more particularly on the date referred to in the grounds of detention i.e. 23.5.1999 and 13.6.199. The detenu is considered as a dangerous person and hence he was detained by an order as aforesaid. On 27.10.1999 the representation was made, copy of which is annexed to the petition at Annexure C. The Detaining Authority has filed an affidavit to satisfy that the order of detention was a must looking to the situation. It is required to be noted that the State has filed no affidavit in the instant case. Para 7 of the grounds reads as under:-

> "7. The petitioner thereafter made representation through his mother Ansaiyya Dharmaji Sapkal to respondent no.1 for setting aside the detention order, is still undecided and is pending before the authority. Copy of the representation is annexed as Annexure C hereto."

Thus, representation at Annexure C dated 27.10.1999 has not been disposed of by the State. It is required to be said so as there is no affidavit filed on behalf of the State. It is under these circumstances that the continued detention is required to be held bad and illegal and therefore the detenu is ordered to be released forthwith, if not required in any other case. Rule made absolute with no orders as to costs.

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